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OFFICE OF PETITIONS

**LANDO & ANASTASI, LLP
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CAMBRIDGE MA 02142**

In re Application of :
Robert B. Chaffee :
Application No. 09/862,858 : **DECISION ON PETITION**
Filed: May 22, 2001 :
Attorney Docket No. C0852-7013US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed July 16, 2010. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. The appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 41.37(b). As no claim was allowed, the application became abandoned on September 17, 2010. See MPEP 1215.04. A Notice of Abandonment was mailed on January 21, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of \$810, (2) the petition fee of \$1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the 2,350 extension of time fee submitted with the petition on March 2, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3673 for appropriate action by the Examiner in the normal course of business on the reply received March 2, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions